

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 822**

**Introduced by Assembly Member Benoit**  
**(Coauthors: Assembly Members DeVore and Huff)**  
**(Coauthor: Senator Cox)**

February 18, 2005

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An act to amend Section ~~212~~ 213 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 822, as amended, Benoit. Employment.

Existing law ~~prohibits the payment of wages by use of various instruments unless they are negotiable and payable in cash, on demand, without discount, at an established place of business in the state.~~ *authorizes employers in certain circumstances to deposit an employee's wages or advance on wages in a bank, savings and loan association, or credit union of the employee's choice.*

This bill would ~~make technical, nonsubstantive changes to that provision~~ *also authorize an employer to deposit an employee's wages or advance on wages in an industrial bank or a trust company. In addition, this bill would permit an employer to transfer an employee's wages or advance on wages to a card issued by a specified financial institution, if the employee voluntarily authorizes the transfer and the card can be used to access funds at an automated teller machine in California.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 212 of the Labor Code is amended to~~  
2     ~~read:~~

3     ~~SECTION 1. Section 213 of the Labor Code is amended to~~  
4     ~~read:~~

5     ~~213. Nothing contained in Section 212 shall be construed to~~  
6     ~~do any of the following:~~

7     ~~(a) Prohibit an employer from guaranteeing the payment of~~  
8     ~~bills incurred by an employee for the necessities of life or for the~~  
9     ~~tools and implements used by the employee in the performance~~  
10    ~~of his duties.~~

11    ~~(b) Apply to counties, municipal corporations, quasi-municipal~~  
12    ~~quasi-municipal corporations, or school districts.~~

13    ~~(c) Apply to students of nonprofit schools, colleges,~~  
14    ~~universities, and other nonprofit educational institutions.~~

15    ~~(d) Prohibit an employer, if voluntarily authorized by an~~  
16    ~~employee, from depositing wages due or to become due or an~~  
17    ~~advance on wages to be earned in an account in any bank,~~  
18    ~~industrial bank, trust company, savings and loan association, or~~  
19    ~~credit union of the employee's choice in this state, provided the~~  
20    ~~employee has voluntarily authorized such deposit. If an employer~~  
21    ~~discharges an employee or the employee quits, such the~~  
22    ~~employee's voluntary authorization for deposit shall be deemed~~  
23    ~~terminated and the provisions of this article relating to payment~~  
24    ~~of wages upon termination of employment shall apply.~~

25    ~~(e) Prohibit an employer, if voluntarily authorized by an~~  
26    ~~employee, from transferring wages due or to become due or an~~  
27    ~~advance on wages to be earned to a card issued to the employee~~  
28    ~~by a bank, industrial bank, trust company, savings and loan~~  
29    ~~association, or credit union of the employee's choice that can be~~  
30    ~~used to access funds at an automated teller machine in this state.~~

31    ~~212. (a) No person, or agent or officer thereof, shall issue in~~  
32    ~~payment of wages due, or to become due, or as an advance on~~  
33    ~~wages to be earned:~~

34    ~~(1) Any order, check, draft, note, memorandum, or other~~  
35    ~~acknowledgment of indebtedness, unless it is negotiable and~~  
36    ~~payable in cash, on demand, without discount, at some~~  
37    ~~established place of business in the state, the name and address of~~  
38    ~~which must appear on the instrument, and at the time of its~~

1 ~~issuance and for a reasonable time thereafter, which must be at~~  
2 ~~least 30 days, the maker or drawer has sufficient funds in, or~~  
3 ~~credit, arrangement, or understanding with the drawee for its~~  
4 ~~payment.~~

5 ~~(2) Any scrip, coupon, cards, or other thing redeemable, in~~  
6 ~~merchandise or purporting to be payable or redeemable otherwise~~  
7 ~~than in money.~~

8 ~~(b) Where an instrument mentioned in subdivision (a) is~~  
9 ~~protested or dishonored, the notice or memorandum of protest or~~  
10 ~~dishonor is admissible as proof of presentation, nonpayment, and~~  
11 ~~protest, and is presumptive evidence of knowledge of~~  
12 ~~insufficiency of funds or credit with the drawee.~~

13 ~~(c) Notwithstanding paragraph (1) of subdivision (a), if the~~  
14 ~~drawee is a bank, the bank's address need not appear on the~~  
15 ~~instrument and, in that case, the instrument shall be negotiable~~  
16 ~~and payable in cash, on demand, without discount, at any place~~  
17 ~~of business of the drawee chosen by the person entitled to~~  
18 ~~enforce the instrument.~~